NW/S of Riverside Road, 220' SW * DEPUTY ZONING COMMISSIONER of the c/l of Stillwater Road (408 Riverside Road) * OF BALTIMORE COUNTY 15th Election District 5th Councilmanic District * Case No. 90-238-A James D. Jones, et ux Petitioners * * * * * * * * * * FINDINGS OF FACT AND CONCLUSIONS OF LAW The Petitioners herein request a variance to permit a side yard

IN RE: PETITION FOR ZONING VARIANCE

setback of 1 foot in lieu of the required 2.5 feet for an existing accessory structure, as more particularly described in Petitioner's Exhibit 1. The Petitioners appeared, testified, and were represented by

Michael E. Brown, Esquire. Appearing as Protestants in the matter were Linda and Arthur Emrick and Mary and Walter Maczda.

Testimony indicated that the subject property, known as 408 Riverside Road, consists of 0.682 acres more or less zoned 1.R. 5.5 and is improved with a single family dwelling and accessory building. Petitioners purchased the property approximately 18 years ago, at which time a utility shed was located along the east side property line where the accessory building now exists. Subsequently, and it is disputed as to whether it was the late 1970s or the early 1980s, Petitioners replaced the shed with the existing structure without building permits. In 1988, Petitioners had their property surveyed to determine the location of a 20' right-of-way easement to the front of the property. The survey revealed that the propthought, but is located as close as 1 foot from the existing utility Upon learning of this finding, Mr. & Mrs. Maczda, the adjoining property owners, filed a complaint with the Zoning Office concerning Petitioners' shed being in violation of the zoning regulations. To correct the matter the Petitioners filed the instant Petition. Petitioners contend the granting of the variance will not result in any detriment to the health, safety, or general welfare of the surrounding community.

The Protestants testified in general opposition to the relief requested, indicating they have been experiencing water runoff problems as a result of there not being a proper gutter system on the subject building.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

> 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 400 day of January, 1990 that the Petition for Zoning Variance to permit a side yard setback of 1 foot in lieu of the required 2.5 feet for an existing accessory building, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief grant-

> 1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

> 2) Petitioners shall have a gutter system installed on the roof of the shed/garage. Said improvements shall be completed by no later than April 1, 1990.

> Petitioner shall not allow or cause the accessory structure to be converted to a second dwelling unit and/or apartments. The shed/garage shall contain no living or sleeping quarters, and no kitchen or bathroom facilities. Further, the shed shall not be used for commercial purposes.

> > (MN-strain ANN M. NASTAROWICZ Deputy Zoning Commissioner for Baltimore County

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 (301) 887-3353

January 4, 1990

4313 Edro Avenue Baltimore, Maryland 21236 RE: PETITION FOR ZONING VARIANCE

Michael E. Brown, Esquire

NW/S of Riverside Road, 270' SW of the c/l of Stillwater Road 15th Election District - 5th Councilmanic District James D. Jones, et ux - Petitioner Case No. 90-238-A

Dear Mr. Brown:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

> Very truly yours, Q M N.o Lowe

ANN M. NASTAROWICZ Deputy Zoning Commissioner

for Baltimore County

cc: Mr. & Mrs. Walter Maczda

406 Riverside Road, Baltimore, Md. 21221 Mr. & Mrs. Arthur Emrick

408 1/2 Riverside Road, Baltimore, Md. 21221 People's Counsel

File

Tracking System Zoning Commissioner
Office of Planning & Zoning TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 400.1 To permit a 1' side yard setback in..... -- the waterfront ward for an accessory building in lies of the minimum - 24-and rear-yard, respectively. Petitioner: of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty) Over 10 years ago Petitioners constructed a garage and relied on their Property Address: neighbor's fence as the property line. Garage was constructed more than 3 feet from said fence and assumed property line. Recently Petitioners had their property surveyed. Now their neighbor is relying on this new survey and is moving the fence to the new survey line which is now within 2 1/2 feet of Petitioner's garage.* To now after more than a decade make the Petitioners move their garage is an unreasonable hardship which is practically difficult for the Petitioners.

Property is to be posted and advertised as prescribed by Zoming Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County. I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition. Contract Purchaser:

Number TYPE Identification Number Zip Code 408 Riverside Road Contract Area · 13.9-6 MISCETTYNEOUS CASH RECEIPT OFFICE OF FINANCE - REVENUE DIVISION BALTIMORE COUNTY, MARYLAND

CRITICAL AREA 90-238-A

ZONING DESCRIPTION

BEGINNING on the western side of the right of way that extends 290 feet northwesterly from the centerline of Riverside Road. Said centerline being 250 feet southeast of Stillwater Road. Fronting the western side of said right of way 138.33 feet. Containing 0.682 acres of land. Being known as 408 Riverside Road in the 15th Election District.

[7]

(Type or Print Name)

Attorney for Petitioner:

Michael E. Brown

4313 Edro Avenue

Baltimore, Maryland 21236

tract purchaser or representative to be contacted

(Type or Print Name)

Kathryn A. Jones

408 Riverside Road

COUNTY OFFICE BLDG. 111 W. Chesapeake Ave. Towson, Maryland 21204

Michael E. Brown, Esquire 4313 Edro Avenue Baltimore, MD 21236

RE: em No. 89, Case No. 90-238-A : titioner: James D. Jones, et ux Petition for Zoning Variance

Dear Mr. Brown:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

> JAMES E. DYER Chairman Zoning Plans Advisory Committee

Enclosures

cc: Mr. & Mrs. James D. Jones 408 Riverside Road Baltimore, MD 21221

Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353 J. Robert Haines Zoning Commissioner



Your petition has been received and accepted for filing this 2nd day of October, 1989.

> J. ROBERT HAINES ZONING COMMISSIONER

Petitioner: James D. Jones, et ux Petitioner's Attorney: Michael E. Brown BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

J. Robert Haines

DATE: December 5, 1989

Pat Keller, Deputy Director Orrice of Planning and Zoning

Zoning Commissioner

James D. Jones, Item 89 SUBJECT: Zoning Petition No. 90-238

The Petitioner requests a variance to permit a 1 ft. side yard setback in the waterfront yard for an accessory building in lieu of the required 2 1/2 ft. rear yard.

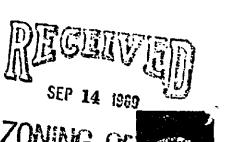
In reference to this request, staff offers no comment.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/cmm

DEC O 5 1989

Baltimore County Department of Public Works Bureau of Traffic Engineering Courts Building, Suite 405 Towson, Maryland 21204 (301) 887-3554



September 12, 1989

Mr. J. Robert Haines Zoning Commissioner County Office Building Towson, MD 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 83, 84, 85, 86, 88, 89, 90, 92, and 93.

Very truly yours,

SEP 1 9 1989

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE: November 27, 1989

Zoning Commissioner FROM: Mr. Robert W. Sheesley

TO: Mr. J. Robert Haines

SUBJECT: Petition for Zoning Variance - Item 89 Chesapeake Bay Critical Area Findings

SITE LOCATION

The subject property is located at 408 Riverside Road along Northeast Creek. The site is within the Chesapeake Bay Critical Area and is classified as an Intensely Developed Area (IDA).

APPLICANT PROPOSAL

The applicant has requested a variance from section 400.1 of the Baltimore County Zoning Regulations to permit a 1 foot side yard setback in the waterfront yard for an accessory building in lieu of the minimum 2.5 and rear yard, respectively.

GOALS OF THE CHESAPRAKE BAY CRITICAL AREA PROGRAM

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

- "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
- Conserve fish, wildlife and plant habitat; and
- 3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts."

<COMAR 14.15.10.01.0> Colled 11/12/89 to Plu late,

Memo to Mr. J. Robert Haines November 27, 1989 Page 2

REGULATION AND FINDING

1. Regulation Grandfathering

"After program approval, local jurisdictions shall permit the continuation, but not necessarily the intensification or expansion, of any use in existence on the date of program approval, unless the use has abandoned for more than one year or is otherwise restricted by existing local ordinances. If any existing use does not conform with the provisions of a local program, its intensification or expansion may be permitted only in accordance with the variance procedures outlined in COMAR 14.15.11" <COMAR 14.15.07.A>.

Finding This zoning variance request was initiated in order to correct an on-going setback violation dating prior to 1979. According to the above regulation, any use in existence prior to the date of program approval, February 1988, is permitted. Therefore, this request does not require a Chesapeake Bay Critical Area Findings.

A Critical Area Findings is not required for this petition. If there are any questions, please contact Mr. David Flowers at 887-2904.

> Robert W. Sheesley, Director Department of Environmental Protection and Resource Management

cc: The Honorable Ronald B. Hickernell The Honorable Norman R. Lauenstein
The Honorable Dale T. Volz Mrs. Janice B. Outen

Baltimore County Fire Department 800 York Road Towson, Maryland 21204-2586 (301) 887-4500 Paul H. Reincke Chief

September 14, 1989



Zoning Commissioner Office of Planning and Zoning Baltimore County Office Building Towson, MD 21204

JAMES D. JONES RE: Property Owner:

Location:

W/S OF R/W LOCATED AT NW/S OF RIVER-SIDE ROAD

Item No.:

Zoning Agenda: AUGUST 19, 1989

Gentlemen:

J. Robert Haines

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

Planning Group Special Inspection Division

Baltimore County Office of Planning & Zoning Towson, Maryland 21204 (301) 887-3353 J. Robert Haines

RE: Petition for Zoning Variance

Mr. Arthur C. Emrick, Jr.

Baltimore, Maryland 21221

408 1/2 Riverside Road

NW/S of Riverside Road, 270' SW of the c/l of Stillwater Road (408 Riverside Road) 15th Election District - 5th Councilmanic District James D. Jones, et ux - Case No. 93-238-A Case No. 90-238-A

Dear Mr. Emrick:

In response to your letter dated January 11, 1990 concerning the above-captioned matter, the following comments are offered.

Thank you for pointing out the discrepancies you found in the Order issued January 4, 1990 for the subject property. While your statements may be accurate they to not impact my decision to grant the relief requested, subject, of course, to restrictions. Your letter, however, will be placed in the case file and made a part of the record.

January 12, 1990

In the event you remain dissatisfied with the decision rendered in this matter, you have the right to file an appeal to the County Board of Appeals, provided you do so within thirty (30) days of the date of the Order, which in this instance, is January 4, 1990.

Again, thank you for bringing your concerns to my attention.

Very truly yours, a HN-strang ANN M. NASTAROWICZ

AMN:bjs

Deputy Zoning Commissioner for Baltimore County

Ann M. Nastarowicz Deputy Zoning Commissioner 111 W. Chesapeake Avenue Baltimore, Maryland 21204

ZONING OFFICE

In reading over your decision, of case # 90-238-A, I noticed two (2) errors in your findings.

The first error is in the third paragraph second sentence: "Petitioners purchased the property approximately 18 years ago, at which time a utility shed was located along the east side property line where the accessory building now exists." The second part of this sentence is incorrect. Yes, they had a utility shed on their property when they bought it. But, the utility shed was closer to the house, NOT on the property line where the garage sets now.

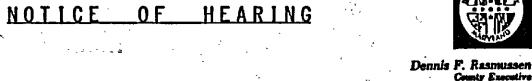
The second error is in the third paragraph last sentence, stating that Mr. & Mrs. Maczka filed the complaint. In fact, it was I who filed the complaint. This error raised a question in the minds of Mr. & Mrs. Maczka as to whether or not I used their name to file the complaint. I told them I used my name to file the complaint and showed them a copy of the letter I sent. They were satisfied.

I noticed that Mr. Brown made reference to the fact that Mr. & Mrs. Maczka filed the complaint, during the Zoning Hearing on December 15, 1989. I just attributed that statement to poor investigation on his part. I did however, expect the Zoning Office to know who filed the complaint and if mentioned in a "Findings of Fact and Conclusions of Law" report, that it would be reported accurately.

As for the remainder of your report, I thought we were there to find out if Mr. Jones did in fact violate Baltimore County Zoning Laws. If so, what was going to be done to correct the problem. ? Had I known we were there to determine any "Detriment to the health, safety, or general welfare of the surrounding community" then just about any structure built on one's property would meet this criteria.

What about the fact that: 1) Mr. Jones had no permit to build this garage. If he had, he would have been told about the 2.5 feet setback required. Plus Mr. Jones ran electric to the garage without a permit. 2) Mr. Jones has cheated Baltimore County out of taxes for 4 or 5 years before the County was even aware of the garage's existence. 3) Mr. Jones would not have applied for a variance at all, had a complaint

Zoning Commissioner
Office of Planning & Zoning Towson, Maryland 21204 (301) 887-3353



The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 108 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as

CASE MANUERS BO-230-A 12/5 of R/W louded at MM/S of Riverside Road, 270" 96 of a/L of 408 Rivereids Road

15th Election District - 5th Cornells wie Potitioner(s): Joues D. Jones, et un PERSONDO FRIDAY, DECHERER 15, 1986 of 2100 p.m.

Veriences To permit a 1 feet side yard setbeck in the weterfront yard for line of the minimum 2j feet and room yard, scapsoit/wely-

In the event that this Petition is granted, a building permit may be issued within the thirty (30) / may appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

ZONING COMMISSIONER

BALTIMORE COUNTY, MARYLANE

My understanding is that a variance should be requested before you build and granted if your property is shaped in such a way as to prevent you from complying with County Zoning Laws. Mr. Jones did not apply for a variance until after the fact. Plus, his property is large enough to have built the garage within Zoning Laws.

In my opinion, Mr. Jones, and anyone else for that matter, should be fined for building outside Zoning Laws. Unless, a variance is requested and granted in advance of building.

An answer to this letter would be greatly appreciated as

Arthur C. Emrick, Jr 408 1/2 Riverside Road Baltimore, Maryland

ZONING DEPARTMENT OF BALTIMORE COUNTY 90-138-1

Posted for: Vorionics Petitioner: James O. Jones, a Luji Location of property: W/s of RW- of NW/s Riverside Rd., 170'sw/s/illuster Rd. Location of Signer PPProx. 30' Fr Riverside Rd., Rt NF/S of RW looding to property,

PETITIONER (SIGN-IN SHEET

4313 Edro Ave 21236

408 RIVERSIDE RD

408 RIVERSILE RP.

PLEASE PRINT CLEARLY

Michael E Brown att

KATHRYN JONES

JAMES D, JONES



THIS IS TO CERTIFY, that the annexed advertisement was published in the NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER, weekly newspapers published in Baltimore County, Md., once in each of ____successive weeks, the first publication appearing on Dec 7,1989.

The Zoring Commissioner of Selfmore County, by authority of the Zoning Act and Regulations of Belimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, incated at 111 W. Chesapeate Avenue in Towson, Maryland 21204 as follows:

Case number 90-238-A)
W/S of R/W located at Nives
of Riverside Road 228 SW
of of of Stilwater Road
408 Riverside Road
15th Election District
5th Counciments
Pattioner(s):
James D. Jones, et at
Hearing Date: Friday,
Dec. 15, 1989 at 2:00 p.m.

Variance: to permit a 1 foot side yard seback in the water-front yard seback in the water-front yard seback in the water-front yard for an accessory building in lieu of the minimum 2 ½ feed and rear yard, respectively. In the event that this Potition is granted, a building permit may be seued within the thirty (30) day appeal within the thirty (30) day appeal eniod. The Zoning Commissioner will, however, entertain any request for a stay of the legistrice of said permit during this period for good cause shows. Such request must be in willing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County
NET/J/12/045 Dec. 7.

NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER

5. Zehe Olm

Baltimore County Zoning Commissioner

Office of Planning & Zoning

Towson, Maryland 21204

(301) 887-3353 J. Robert Haines
Zoning Commissioner Pt. & Pts. James D. Jores 408 Riverside Road Baltimore, Paryland 21221 Petition for Zoning Verience CASE NUMBERS 90-238-A M/3 of R/W located at MM/3 of Riverside Road, 270° SV of a/l of Stilluster Road 15th Election District - 5th Councilments Potitioner(e): James D. Jorge, et us PEARING: FRIDAY, DECREBER 15, 1988 et 2:00 p.m. Dear Mr. & Firs. Jones Please be advised that \$99.56 is due for advertising and posting of THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) Baltimore County

Zoning Commissioner

County Office Building

111 West Chesapeake Avenue

Towsen Montale

> PUBLIC HEARING FEES 080 -POSTING SIGNS / ADVERTISING 1 LAST NAME OF OWNER: JONES

12/15/89

000*****9586:a 2182F

NAME	ADDRESS
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